

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1914/2000

New Delhi this the 8th day of February, 2001.

HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)

Suresh Pal,
S/o Shri Ram Swaroop,
R/o C-39/19, Village Nangla Manchi,
Ring Road,
New Delhi-110 002.

...Applicant

(By Advocate Shri B.B. Raval)

-Versus-

1. Union of India through the
Secretary,
Ministry of Environment
and Forests, Govt. of India,
Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi-110003.

3. The Director,
National Zoological Park,
Mathura Road,
New Delhi-110 003.

...Respondents

(By Advocate - None)

O R D E R

By Mr. Shanker Raju, Member (J):

I proceed to dispose of the present OA on merits in terms of Rule 15 of C.A.T. (Procedure) Rules, 1987. By an order dated 17.1.2001 the respondents were granted time upto 2.2.2001, failing which their right to file the same would be forfeited. As no counter has come on record, the respondents have forfeited their right to file reply. I, therefore, dispose of the OA on the basis of the available pleadings existing in the OA filed by the applicant, taking them as uncontroverted.

2. The applicant has sought a direction to accord him temporary status from the earliest date when he became eligible in terms of OM dated 10.9.93 issued by the DOPP&T and for regularisation. The brief facts leading to

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✓ the filing of the OA are that the applicant's name was registered in the Employment Exchange in 1988 and was engaged as a daily rated casual labourer by National Zoological Park w.e.f. June, 1989. He was not only given technical breaks but long breaks for extraneous consideration by the respondents and eventually disengaged him for a petty long time. The applicant filed OA No.953/91 before this Tribunal and vide judgement dated 21.1.92 the following directions have been issued to the respondents:

"7. In the light of the foregoing discussion, we hold that the system of replacing the services of the casual labourers by engaging contractors is neither fair nor just. It runs counter to the very philosophy underlying engagement of casual labourers who can eventually look forward to absorption in regular posts in accordance with the administrative instructions issued by the Department of Personnel & Training. Keeping these facts in view and in the interest of justice and fair play, the application is disposed of with the direction to the respondents to engage the applicants as casual labourers so long as there is need for engagement of casual labourers in preference to person with lesser length of service and outsiders, including contractors. We do not express any opinion on the question about the validity of the impugned invitation to tender. In case, any contractual arrangement is proposed to be entered into, the respondents shall exclude from the scope of the contract, the work which had been handled by the applicants in the National Zoological Park.

8. The respondents shall comply with the above directions within a period of one month from the date of communication of this order."

W 3. The applicant due to the continuous flouting of the directions by the respondents regarding non-implementation of the scheme dated 10.9.93 and denial of temporary status filed OA-1826/94 before the Tribunal for regularising his services and for payment of allowances in parity with the regular employees. According to the applicant the fate of this application was not known to

him. The respondents further compounded injustice by sending a request for filling up clear seven posts of Group 'D' in the National Zoological Park and sent it to the Employment Exchange for calling fresh persons to fill up the posts on 9.12.96. According to the applicant list has already been sent by the Employment Exchange and a list of 110 candidates have been sent by the Exchange to the respondents for interview. According to the applicant without taking any steps to give temporary status to the applicant who had been working for nearly a decade with technical breaks, the respondents have committed a contempt of the directions of this Tribunal by inviting fresh names.

4. The applicant was dis-engaged on 30.7.97 and had filed OA-2724 before the Tribunal and vide an order dated 26.5.98 the following directions have been issued by the Tribunal:

"6. Without considering it necessary to go any further into this aspect of the matter, and having regard to the fact that applicant has put in service with respondents for many years, although with breaks, I dispose of this O.A. with a direction to Respondent NO.2 to summon the applicant, on any working day by 15.6.98, and provided applicant tenders his unqualified regrets to him for any imputation which he may have been made in regard to Shri Khan, R-2, should consider reengaging the applicant as a Casual Labourer in preference to outsiders and juniors, subject to availability of work.

7. Thereafter, applicant may work out his rights for grant of temporary status and eventual regularisation which should be considered by respondents in accordance with O.M. dated 10.9.93 and other relevant rules and instructions on the subject."

5. According to the applicant the question of temporary status was to be considered by the respondents but the OA was allowed by giving direction to consider

✓ re-engaging the applicant as a casual labourer. In this conspectus it is averred that the case of the applicant does not suffer from the vice of res-judicata.

6. The applicant further contended by referring to a charge of period of working of the applicant from 1989-2000 annexed at Annexure A-4 and contended that he fulfils the eligibility criteria for temporary status as per OM dated 10.9.93 as he had completed 213 days of service as casual labourer in the year 1993 and according to him he is entitled for grant of temporary status w.e.f. 9.9.93 and thereafter regularisation in terms of the Scheme referred to above. According to the applicant, in the meanwhile, he is graduated and had been working in view of the directions issued by the Tribunal in OA-2724/97 (supra). According to the applicant the work is of a perennial nature.

D 7. I have carefully considered the contentions taken by the applicant and as the respondents have not filed any reply their right has already been forfeited, the contentions taken by the applicants remain uncontroverted and on the basis of his averments and the fact that he had rendered the requisite period of service as prescribed under DOP&T OM dated 10.9.93, he is legally entitled to be conferred the temporary status and further regularisation in terms of the DOP&T Scheme dated 10.9.93.

W 8. In the result, the OA is allowed. The respondents are directed to consider the claim of the applicant for grant of temporary status from the date he became eligible in terms of DOP&T OM dated 10.9.93 and

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further take steps to regularise him, in view of his seniority in accordance with the rules and instructions on the subject. No costs.

S. Raju

(Shanker Raju)
Member (J)

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